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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,027

09/30/2004

Gary Sokolov

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8762

22885 7590 10/05/2007  
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SUITE 3200  
DES MOINES, IA 50309-2721

EXAMINER
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COLLINS, DOLORES R

ART UNIT	PAPER NUMBER
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3711

MAIL DATE	DELIVERY MODE
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10/05/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/511,027	<b>Applicant(s)</b> SOKOLOV, GARY	
	<b>Examiner</b> Dolores R. Collins	<b>Art Unit</b> 3711	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 5, 6, 9-16 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-6, 9-16 & 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges response by applicant's representative received 9/6/07.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-2, 5-6, 9-11, 15-16 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (728).

Thompson discloses a Poker Game Using A Roulette Wheel.

Regarding Claims 1-2, 9-11, 15-16 & 20

Thompson's game teaches the limitations of the aforementioned claims except the recitation of 49 or 50 regions. It would have been an obvious matter of design choice to use any number of regions to the maximum permitted by the standard roulette game with cards (i.e., 54 with 2 jokers). Such would be a matter of design choice and would present little or no difficulty to one skilled in the art.

Further, applicant has not demonstrated the criticality for only 49 or 50 regions.

Regarding claims 5-6

Thompson fails to teach 49 or 50 regions, he teaches 53 regions instead. It would have been an obvious matter of design choice to modify Thompson to any desired size, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

2. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (728) as applied to claim 10 above, and further in view of Busch et al. (659).

Regarding claims 12-14

Thompson fails to explicitly teach features of a jackpot wager. Busch discloses a Roulette Table Having Progressive Jackpots. His method teaches jackpot wagers and resolution based on a predetermined number of successive spins (see abstract) It would have been obvious to modify Thompson to include jackpot features to add excitement to game play.

***Response to Arguments***

Applicant's arguments filed 9/6/07 have been fully considered but they are not persuasive. Applicant argues that a novelty of his invention is a wheel with 49 or 50 regions. Examiner maintains that having 49 or 50 regions is an obvious matter of design choice. Such would be a matter of design choice. Applicant, by his own admission in the specification on page 8, lines 18-25, admits to the use of wheel variations of 53 and/or 54. Modified decks are known in the art, one such could be a standard deck minus the aces plus one joker (49 cards).

Applicant argues, extensively, the profit/outcome/resolution of selected regions and has cited one and one half pages of case law and has submitted an example of what appears to be commercial success. Examiner feels that secondary consideration of non obviousness in the form of commercial success is acceptable where novelty exists. Applicant's invention does not appear to be novel.

Examiner further feels that paytables, rewards and outcomes are all design issues and modifications of such presents little or no difficulty to one skilled in the art.

Examiner notes that applicant has not accepted the invitation to schedule a telephone interview as suggested in the previous office action. Applicant is, once again, invited to schedule a telephone interview to further clarify the novelty of his invention.

This action is made final.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Dolores R. Collins** whose telephone number is **(571) 272-4421**. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Eugene Kim** can be reached on **(571) 272-4463**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or **571-272-1000**.

  
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9/27/07



EUGENE KIM  
SUPERVISORY PATENT EXAMINER